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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,852	09/13/2000	Gerard Vahee	END920000075US1	7942
7590 11/28/2008				
John R. Pivnichny IBM, N50/040-4 1701 North Street Endicott, NY 13760			EXAMINER FRENEL, VANEL	
			ART UNIT 3687	PAPER NUMBER
			MAIL DATE 11/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/660,852

Applicant(s)

VAHEE ET AL.

Examiner

VANEL FRENEL

Art Unit

3687

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Amendment filed on 09/18/08. Claim 9 has been cancelled. Claims 1-8, and 10-12 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lungren et al. (6,092,050) in view of Sanders (6,411,936).

As per claim 1, Lungren discloses a process for managing a project, comprising the steps of: building a project management data model having entities and relationships described by text and graphical data (See Lungren, Abstract; Col.1, lines 5-31).

Lungren does not explicitly disclose that the process having entering said project management data model in a relational database; building a project management data model tool having web pages from said text and graphical data; generating hyperlinks in said web pages of said tool based on said relationship in said relational database; and using said tool to manage said project.

However, these features are known in the art, as evidenced by Sanders. In particular, Sanders suggests that the process having entering said project management data model in a relational database (See, Sanders, Col.2, lines 40-56); building a project management data model tool having web pages from said text and graphical data (See Sanders, Fig.10; Col.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); generating hyperlinks in said web pages of said tool based on said relationship in said relational database (See Sanders, Fig.10; Col.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); and using said tool to manage said project (See Sanders Fig.10; Col.13, lines 8-65; Col.21, lines 66 to Col.22, line 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Sanders within the system of Lungren with the motivation of providing a method of enterprise value enhancement including the steps of creating a value enhancement model of the enterprise based on planning loop structures, the planning loop structures each being a dynamic frame-based model (See Sanders, Col.7, lines 41-65).

As per claim 2, Sanders discloses the process wherein said text includes guidance based on experience (See Sanders, Col.9, lines 24-52).

The motivation for combining the respective teachings of Lungren and Sanders are as discussed above in the rejection of claim 1, and incorporated herein.

As per claim 3, Lungren discloses the process wherein said text has been entered in a word processor (See Lungren, Col.4, lines 1-12).

As per claim 4, Lungren discloses the process wherein said graphical data is entered in an image processing application program (See Lungren, Col.4, lines 38-67).

As per claim 5, Lungren discloses project management data model comprises a project definition process (See Lungren, Col.6, lines 44-67), a change management process (See Lungren, Col.8, lines 22-65), a risk management tool (See Lungren, and an issue management tool (See Lungren, Fig.5; Co1.10, lines 35-64).

As per claim 6, Sanders discloses the process further comprising the step of parsing said text data by adding tags identifying the nature, beginning, and end of said entities described by text data and storing said parsed text data in said relational database (See, Sanders, Col.2, lines 40-56).

As per claim 7, Lungren discloses a business process for transforming a business need into a strategy for providing a solution which meets said need, comprising the steps: defining said business need (See Lungren, Col.5, lines 45-65); building in response to said business need, a project management data model having entities and relationships described by text and graphical data (See Lungren, Abstract; Col.1, lines 5-31).

Lungren does not explicitly disclose entering said project management data model in a relational database; building a project management data model tool comprising web pages from said text and graphical data, generating hyperlinks in said web pages of said tool based on said relationship in said relational database; and operating said tool to provide a solution which meets said need.

However, these features are known in the art, as evidenced by Sanders. In particular, Sanders suggests entering said project management data model in a relational database (See, Sanders, Col.2, lines 40-56); building a project management data model tool comprising web pages from said text and graphical data (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); generating hyperlinks in said web pages of said tool based on said relationship in said relational database (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); and operating said tool to provide a solution which meets said need (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Sanders within the system of Lungren with the motivation of providing a method of enterprise value enhancement including the steps of creating a value enhancement model of the enterprise based on planning loop structures, the planning loop structures each being a dynamic frame-based model (See Sanders, Col.7, lines 41-65).

As per claim 8, Lungren discloses a system for project management, comprising: a project management data model having entities and relationships described by text and graphical data (See Lungren, Abstract; Co1.1, lines 5-31). Lungren does not explicitly disclose that the system having a relational database containing said model; a project management tool having web pages generated from said text and graphical data; hyperlinks in said web pages of said tool based on said relationship in said relational database; and computer means for operating said tool and said data model to manage a project.

However, these features are known in the art, as evidenced by Sanders. In particular, Sanders suggests that the system having a relational database containing said model (See, Sanders, Col.2, lines 40-56); a project management tool having web pages generated from said text and graphical data (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); hyperlinks in said web pages of said tool based on said relationship in said relational database (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); and computer means for operating said tool and said data model to manage a project (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Sanders within the system of Lungren with the motivation of providing a method of enterprise value enhancement including the steps of creating a value enhancement model of the enterprise based on planning loop

structures, the planning loop structures each being a dynamic frame-based model (See Sanders, Col.7, lines 41-65).

As per claim 10, Lungren discloses a system for managing projects within an enterprise, comprising: a project management data model having entities and relationships described by text and graphical data (See Lungren, Abstract; Co1.1, lines 5-31).

Lungren does not explicitly disclose that the system having a relational database containing said model; a project management tool having web pages generated from said text and graphical data; hyperlinks in said web pages of said tool based on said relationship in said relational database; and computer means for operating said tool and said data model to manage said projects within said enterprise.

However, these features are known in the art, as evidenced by Sanders. In particular, Sanders suggests a relational database containing said model (See Sanders, Fig.5; Col.9, lines 24-67); a project management tool having web pages generated from said text and graphical data (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); hyperlinks in said web pages of said tool based on said relationship in said relational database (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); and computer means for operating said tool and said data model to manage said projects within said enterprise (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Sanders within the system of Lungren with the motivation of providing a method of enterprise value enhancement including the steps of creating a value enhancement model of the enterprise based on planning loop structures, the planning loop structures each being a dynamic frame-based model (See Sanders, Col.7, lines 41-65).

As per claim 11, Lungren discloses a project management system implemented on a computer system, said project management system comprising: means for building a project management data model having entities and relationships described by text and graphical data (See Lungren, Abstract; Co1.1, lines 5-31).

Lungren does not explicitly disclose that the project having a means for entering said project management data model in a relational database; means for building a project management tool comprising web pages from said text and graphical data; means for generating hyperlinks in said web pages of said tool based on said relationships in said relational database; and means for using said tool to manage said project.

However, these features are known in the art, as evidenced by Sanders. In particular, Sanders suggests that the project having a means for building a project management tool comprising web pages from said text and graphical data (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); means for generating hyperlinks in said web pages of said tool based on said relationships in said

relational database (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); and means for using said tool to manage said project (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Sanders within the system of Lungren with the motivation of providing a method of enterprise value enhancement including the steps of creating a value enhancement model of the enterprise based on planning loop structures, the planning loop structures each being a dynamic frame-based model (See Sanders, Col.7, lines 41-65).

Claim 12 differs from claims 1, 7-8 and 10-11 by reciting a computer program product for instructing a processor to provide a method of project management, said computer program product comprising.

As per this limitation it is noted that Lungren discloses a computer readable medium (See Lungren, Col.3, lines 45-61); first program instruction means for building a project management data model having entities and relationships described by text and graphical data (See Lungren, Abstract; Co1.1, lines 5-31) and Sanders discloses second program instruction means for entering said project management data model in a relational database (See, Sanders, Col.2, lines 40-56); third program instruction means for building a project management tool comprising web pages from said text and graphical data (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); fourth program instruction means for generating hyperlinks in said web pages of said

tool based on said relationships in said relational database (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); fifth program instruction means for using said tool to manage said project (See) Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7); and wherein all said program instruction means are recorded on said medium (See Sanders, Fig.10; Co1.13, lines 8-65; Col.21, lines 66 to Col.22, line 7).

Thus, it is readily apparent these prior art systems utilize a computer program product for instructing a processor to provide a method of project management, said computer program product to perform their specified function.

The remainder of claim 12 is rejected for the same reasons given above for claims 1, 7-8 and 10-11, and, are incorporated herein.

Response to Arguments

4. Applicant's arguments filed on 09/18/08 with respect to claims 1-8 and 10-12 have been considered but they are not persuasive.

(A) At pages 7-9 of the response filed on 09/18/08, Applicant's argues the followings:

(i) Sanders does not suggest that a project management data model is entered in a relational database.

(ii) Lungren does not describe building a project management tool for a project for production of a product or providing services having web pages from said text and graphical data.

(iii) The combination of Lungren and Sanders does not suggest the important steps of claim 1.

(B) With respect to Applicant's first argument, the Examiner respectfully submitted that He relied upon the clear teaching of Sanders (See Figs.4-Fig.5; Col.2, lines 24-67; Col.9, lines 10-67; Col.10, lines 3-67) which correspond to Applicant's claimed feature. Therefore, Applicant argument is not persuasive and the rejection is hereby sustained.

(C) With respect to Applicant's second argument, the Examiner respectfully submitted that He relied upon the clear teaching of Sanders (See Sanders, Fig.10; Col.13, lines 8-65; Col.21, lines 66 to Col.22, line 7) which correspond to Applicant's claimed feature. Therefore, Applicant argument is not persuasive and the rejection is hereby sustained.

(D) With respect to Applicant's third argument, Examiner respectfully submitted that obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984); and *In re Rinehart*, 531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a *prima facie* case of obviousness, since he has presented

evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention.

Rather, Applicant does not point to any specific distinction(s) between the features disclosed in the references and the features that are presently claimed. In particular, 37 CFR 1.111(b) states, "A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference does not comply with the requirements of this section." Applicant has failed to specifically point out how the language of the claims patentably distinguishes them from the applied references.

Also, arguments or conclusions of Attorney cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326 F.2d 769, 140 USPQ 230 (1964); *In re Schulze*, 52 CCPA 1422, 346 F.2d 600, 145 USPQ 716 (1965); *Mertizner v. Mindick*, 549 F.2d 775, 193 USPQ 17 (CCPA 1977).

In addition, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is respectfully contended that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

The Examiner is concerned that Applicant apparently ignores the mandate of the numerous court decisions supporting the position given above. The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lulu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would

suggest. Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Examiner, Art Unit 3687

November 15, 2008

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/Matthew S Gart/

Supervisory Patent Examiner, Art Unit 3687